

C. Remarks

The claims are 21-37, with claims 21 and 25 being independent. Claims 22, 23 and 25-37 have been withdrawn from consideration as being directed to non-elected subject matter. Reconsideration of the present claims is expressly requested.

Claims 21 and 24 stand rejected under 35 U.S.C. § 102(a) as being allegedly anticipated by EP 1 340 776 (Yano). Claims 21 and 24 also stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 6,911,520 B1 (the '520 patent); 6,908,721 B2 (the '721 patent); 6,649,380 (the '380 patent); or 6,645,743 B1 (the '743 patent).

Applicants respectfully submit that neither of the above documents is prior art to the present application. Specifically, Yano was published and the '520 patent, the '721 patent, the '380 patent and the '743 patent were all filed in 2003, while Japanese Application No. 2002-309786, from which the subject application claims priority under 35 U.S.C. § 119, was filed on October 24, 2002. The sworn translation of the priority application is submitted herewith to perfect the priority claim in accordance with 37 C.F.R. § 1.55. Thus, withdrawal of the anticipation rejections is respectfully requested.

Claims 21 and 24 also stand rejected under the judicially created doctrine of obviousness-type double patenting over claim 15 of the '520 patent, claim 8 of in the '721 patent, claim 2 of the '380 patent and claim 2 of the '743 patent.

Applicants believe that the filing of a terminal disclaimer at this juncture is premature. Applicants, for example, would need to pay a fee for the recordation of each

terminal disclaimer, which is non-refundable, should the withdrawal of the disclaimer need to be requested due to additional future amendments or should this application be abandoned in favor of a continuation. In that regard, Applicants will also have additional expenses associated with, for example, re-recording the terminal disclaimers in the continuation or requesting withdrawal of the terminal disclaimers. Furthermore, since the majority of the claims in this case are yet to be examined due to the pending withdrawal of the restriction requirement, the terminal disclaimer is believed to be premature.

Lastly, as a formal matter, once the above-noted prior art rejections are withdrawn, non-elected claims 22, 23 and 25-37 should be rejoined and examined on the merits since the lack unity of invention cannot be based on the disclosure in Yano, which is not prior art.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

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